THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.21678 of 1996

ORDER:

The case of the petitioner is that he is the owner of dry land to an extent of Ac.4.75 cents in Survey No.137 of Gowravram village, Ananthasagaram mandal, Nellore district and he raised chilly crops in the said land and deriving income therefrom. He also raised 250 lime trees, 462 coconut trees and 2 guava trees in the said land about 21 years back with water from the well situated in the said land. However, an extent of 52 cents was acquired by the second respondent for the purpose of excavating north feeder channel of Somasila project. On account of the said excavation of the channel, the well got dried up and as there is no water source, the trees got weathered away and damaged. On a representation made by the petitioner, the second respondent also acquired the Well, which has become useless on account of excavation of north feeder channel and awarded compensation vide Award No.1/95-96 dated 23.5.1995 and the petitioner received the same under protest. The grievance of the petitioner is that the respondents failed to acquire the trees standing on the said land by paying compensation under Section 23 of the Land Acquisition Act in spite of his requests and representations. Therefore, he filed W.P.No.8257 of 1991 seeking a direction to the respondents to acquire the trees by paying compensation to the entire land. This Court while disposing of the said writ petition, directed the petitioner to file a detailed petition before the competent authority and the competent authority was directed to consider and dispose of the same as per law. In pursuance to the above, petitioner filed a representation dated 26.12.1991 to the second respondent-competent authority. Now the complaint of the petitioner is that his representation was rejected

on the ground that there is no such requisition from the Executive Engineer, Somasila Project Division No.IV, Atmakur for acquiring the land separately and paying compensation.

A detailed counter affidavit has been filed by the respondents, wherein it is stated that the Executive Engineer, Somasila Project Division No.IV had inspected the land on 7.11.1992 and reported that 231 lime trees, 32 coconut trees and two guava trees are existing in the land which were completely dried up as the water in the well was dried due to the close proximity of the said north feeder channel and hence the trees also weathered away. The Engineering Department has not sent requisition for acquiring the remaining extent i.e. Acs.4-62 cents stating that the said extent is not required to the Department as the same is far away from the north feeder channel.

The grievance of the petitioner is that since the well is dried up, the trees have weathered away, therefore, he sought compensation for the trees as contemplated under Section 23 of the Land Acquisition Act. In view of the above, I am of the opinion that there was no proper consideration of the petitioner's case as required under Section 23 of the Act. The petitioner is only seeking compensation for the trees existed on the land as on the date of acquisition of land and the well, which is dried up. In the teeth of the report of the Executive Engineer, Somasila Project Division No.IV dated 7.11.1992, the case of the petitioner needs to be considered as per Section 23 of the Act. Therefore, without expressing any opinion on merits, the respondents are directed to consider the case of the petitioner for awarding compensation under Section 23 of the Act for the trees which have weathered away in view of the fact that the well through which the trees were irrigated, has dried up. The respondents shall pass appropriate orders as per law within a period of two months from the

date of receipt of a copy of this order.

With the above direction, the writ petition is accordingly disposed of. No order as to costs.

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C.V.RAMULU,
J

Date: 4.7.2006

Note:
Issue C.C. in one week.
DA

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.21678 of 1996

4.7.2006

IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH AT HYDERABAD

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.21678 of 1996

Dated: 4th June, 2006

Between:

Chandra Venkata Subbaiah

.. Petitioner

and

The Collector, Nellore district,
Nellore & others.

.. Respondents